

**Calendar No. 677**

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1275**

To establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

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IN THE SENATE OF THE UNITED STATES

JUNE 16, 2009

Mr. WARNER (for himself, Mr. UDALL of Colorado, Mr. BAYH, Mr. BURRIS, Mr. CARPER, Mr. LUGAR, Mr. INOUE, Mr. MERKLEY, Mr. CARDIN, Mr. BROWN of Massachusetts, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

DECEMBER 7, 2010

Reported by Mr. HARKIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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**A BILL**

To establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Foundation  
3 on Physical Fitness and Sports Establishment Act”.

4 **SEC. 2. ESTABLISHMENT AND PURPOSE OF FOUNDATION.**

5 (a) **ESTABLISHMENT.**—There is established the Na-  
6 tional Foundation on Physical Fitness and Sports (herein-  
7 after in this Act referred to as the “Foundation”). The  
8 Foundation is a charitable and nonprofit corporation and  
9 is not an agency or establishment of the United States.

10 (b) **PURPOSES.**—The purposes of the Foundation  
11 are—

12 (1) in conjunction with the President’s Council  
13 on Physical Fitness and Sports, to develop a list and  
14 description of programs, events and other activities  
15 which would further the goals outlined in Executive  
16 Order 12345 and with respect to which combined  
17 private and governmental efforts would be beneficial;  
18 and

19 (2) to encourage and promote the participation  
20 by private organizations in the activities referred to  
21 in subsection (b)(1) and to encourage and promote  
22 private gifts of money and other property to support  
23 those activities.

24 (c) **DISPOSITION OF MONEY AND PROPERTY.**—At  
25 least annually the Foundation shall transfer, after the de-  
26 duction of the administrative expenses of the Foundation,

1 the balance of any contributions received for the activities  
 2 referred to in subsection (b), to the United States Public  
 3 Health Service Gift Fund pursuant to section 2701 of the  
 4 Public Health Service Act (42 U.S.C. 300aaa) for expendi-  
 5 ture pursuant to the provisions of that section and con-  
 6 sistent with the purposes for which the funds were do-  
 7 nated.

8 **SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.**

9 (a) ESTABLISHMENT AND MEMBERSHIP.—The  
 10 Foundation shall have a governing Board of Directors  
 11 (hereinafter referred to in this Act as the “Board”), which  
 12 shall consist of 9 members each of whom shall be a United  
 13 States citizen and—

14 (1) 3 of whom must be knowledgeable or experi-  
 15 enced in one or more fields directly connected with  
 16 physical fitness, sports, or the relationship between  
 17 health status and physical exercise; and

18 (2) 6 of whom must be leaders in the private  
 19 sector with a strong interest in physical fitness,  
 20 sports, or the relationship between health status and  
 21 physical exercise.

22 The membership of the Board, to the extent practicable,  
 23 shall represent diverse professional specialties relating to  
 24 the achievement of physical fitness through regular par-  
 25 ticipation in programs of exercise, sports, and similar ac-

1 tivities. The Assistant Secretary for Health, the Executive  
 2 Director of the President's Council on Physical Fitness  
 3 and Sports, the Director for the National Center for  
 4 Chronic Disease Prevention and Health Promotion, the  
 5 Director of the National Heart, Lung, and Blood Insti-  
 6 tute, and the Director for the Centers for Disease Control  
 7 and Prevention shall be ex officio, nonvoting members of  
 8 the Board. Appointment to the Board or its staff shall  
 9 not constitute employment by, or the holding of an office  
 10 of, the United States for the purposes of any Federal em-  
 11 ployment or other law.

12 (b) APPOINTMENTS.—Within 90 days from the date  
 13 of enactment of this Act, the members of the Board will  
 14 be appointed. Three members of the Board will be ap-  
 15 pointed by the Secretary (hereinafter referred to in this  
 16 Act as the “Secretary”), 2 by the majority leader of the  
 17 Senate, 1 by the minority leader of the Senate, 2 by the  
 18 Speaker of the House of Representatives, 1 by the minor-  
 19 ity leader of the House of Representatives.

20 (c) TERMS.—The members of the Board shall serve  
 21 for a term of 6 years. A vacancy on the Board shall be  
 22 filled within 60 days of the vacancy in the same manner  
 23 in which the original appointment was made and shall be  
 24 for the balance of the term of the individual who was re-

1 placed. No individual may serve more than 2 consecutive  
 2 terms as a member.

3 (d) CHAIRMAN.—The Chairman shall be elected by  
 4 the Board from its members for a 2-year term and will  
 5 not be limited in terms or service.

6 (e) QUORUM.—A majority of the current membership  
 7 of the Board shall constitute a quorum for the transaction  
 8 of business.

9 (f) MEETINGS.—The Board shall meet at the call of  
 10 the Chairman at least once a year. If a member misses  
 11 3 consecutive regularly scheduled meetings, that member  
 12 may be removed from the Board and the vacancy filled  
 13 in accordance with subsection (e).

14 (g) REIMBURSEMENT OF EXPENSES.—Members of  
 15 the Board shall serve without pay, but may be reimbursed  
 16 for the actual and necessary traveling and subsistence ex-  
 17 penses incurred by them in the performance of the duties  
 18 of the Foundation, subject to the same limitations on re-  
 19 imbursement that are imposed upon employees of Federal  
 20 agencies.

21 (h) LIMITATIONS.—The following limitations apply  
 22 with respect to the appointment of officers and employees  
 23 of the Foundation:

24 (1) Officers and employees may not be ap-  
 25 pointed until the Foundation has sufficient funds to

1 pay them for their service. No individual so ap-  
2 pointed may receive pay in excess of the annual rate  
3 of basic pay in effect for Executive Level V in the  
4 Federal service.

5 (2) The first officer or employee appointed by  
6 the Board shall be the Secretary of the Board who  
7 shall serve, at the direction of the Board, as its chief  
8 operating officer and shall be knowledgeable and ex-  
9 perienceed in matters relating to physical fitness and  
10 sports.

11 (3) No Public Health Service employee nor the  
12 spouse or dependent relative of such an employee  
13 may serve as an officer or member of the Board of  
14 Directors or as an employee of the Foundation.

15 (4) Any individual who is an officer, employee,  
16 or member of the Board of the Foundation may not  
17 (in accordance with the policies developed under sub-  
18 section (i)) personally or substantially participate in  
19 the consideration or determination by the Founda-  
20 tion of any matter that would directly or predictably  
21 affect any financial interest of the individual or a  
22 relative (as such term is defined in section 109(16)  
23 of the Ethics in Government Act, 1978) of the indi-  
24 vidual, of any business organization, or other entity,  
25 or of which the individual is an officer or employee,

1 is negotiating for employment, or in which the indi-  
 2 vidual has any other financial interest.

3 ~~(i) GENERAL POWERS.—~~The Board may complete  
 4 the organization of the Foundation by—

5 (1) appointing officers and employees;  
 6 ~~(2) adopting a constitution and bylaws con-~~  
 7 ~~sistent with the purposes of the Foundation and the~~  
 8 ~~provision of this Act; and~~

9 ~~(3) undertaking such other acts as may be nec-~~  
 10 ~~essary to carry out the provisions of this Act.~~

11 In establishing bylaws under this subsection, the Board  
 12 shall provide for policies with regard to financial conflicts  
 13 of interest and ethical standards for the acceptance, solici-  
 14 tation and disposition of donations and grants to the  
 15 Foundation.

16 **SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.**

17 ~~(a) IN GENERAL.—~~The Foundation—

18 ~~(1) shall have perpetual succession;~~  
 19 ~~(2) may conduct business throughout the sev-~~  
 20 ~~eral States, territories, and possessions of the~~  
 21 ~~United States;~~

22 ~~(3) shall have its principal offices in or near the~~  
 23 ~~District of Columbia; and~~

1           (4) shall at all times maintain a designated  
 2           agent authorized to accept service of process for the  
 3           Foundation.

4   The serving of notice to, or service of process upon, the  
 5   agent required under paragraph (4), or mailed to the busi-  
 6   ness address of such agent, shall be deemed as service  
 7   upon or notice to the Foundation.

8           (b) SEAL.—The Foundation shall have an official seal  
 9   selected by the Board which shall be judicially noticed.

10          (c) POWERS.—To carry out its purposes under sec-  
 11   tion 2, and subject to the specific provisions thereof, the  
 12   Foundation shall have the usual powers of a corporation  
 13   acting as a trustee in the District of Columbia, including  
 14   the power—

15           (1) except as otherwise provided herein, to ac-  
 16   cept, receive, solicit, hold, administer and use any  
 17   gift, devise, or bequest, either absolutely or in trust,  
 18   of real or personal property or any income therefrom  
 19   or other interest therein;

20           (2) to acquire by purchase or exchange any real  
 21   or personal property or interest therein;

22           (3) unless otherwise required by the instrument  
 23   of transfer, to sell, donate, lease, invest, reinvest, re-  
 24   tain or otherwise dispose of any property or income  
 25   therefrom;



1           (4) to sue and be sued, and complain and de-  
 2           fend itself in any court of competent jurisdiction, ex-  
 3           cept for gross negligence;

4           (5) to enter into contracts or other arrange-  
 5           ments with public agencies and private organizations  
 6           and persons and to make such payments as may be  
 7           necessary to carry out its functions; and

8           (6) to do any and all acts necessary and proper  
 9           to carry out the purposes of the Foundation.

10 For purposes of this Act, an interest in real property shall  
 11 be treated as including easements or other rights for pres-  
 12 ervation, conservation, protection, or enhancement by and  
 13 for the public of natural, scenic, historic, scientific, edu-  
 14 cational inspirational or recreational resources. A gift, de-  
 15 vise, or bequest may be accepted by the Foundation even  
 16 though it is encumbered, restricted, or subject to beneficial  
 17 interests of private persons if any current or future inter-  
 18 est therein is for the benefit of the Foundation.

19 **SEC. 5. PROTECTION AND USES OF TRADEMARKS AND**  
 20 **TRADE NAMES.**

21           (a) **PROTECTION.**—Without the consent of the Foun-  
 22 dation in conjunction with the President's Council on  
 23 Physical Fitness and Sports, any person who uses for the  
 24 purpose of trade, uses to induce the sale of any goods or

1 services, or uses to promote any theatrical exhibition, ath-  
 2 letic performance or competition—

3           (1) the official seal of the President's Council  
 4           on Physical Fitness and Sports consisting of the  
 5           eagle holding an olive branch and arrows with shield  
 6           breast encircled by name "President's Council on  
 7           Physical Fitness and Sports" and consisting, de-  
 8           pending upon placement, of diagonal stripes;

9           (2) the official seal of the Foundation; or

10           (3) any trademark, trade name, sign, symbol,  
 11           or insignia falsely representing association with or  
 12           authorization by the President's Council on Physical  
 13           Fitness and Sports or the Foundation;

14 shall be subject in a civil action by the Foundation for  
 15 the remedies provided in the Act of July 9, 1946 (60 Stat.  
 16 427; popularly known as the Trademark Act of 1946).

17           (b) USES.—The Foundation, in conjunction with the  
 18 President's Council on Physical Fitness and Sports, may  
 19 authorize contributors and suppliers of goods or services  
 20 to use the trade name or the President's Council on Phys-  
 21 ical Fitness and Sports and the Foundation as well as any  
 22 trademark, seal, symbol, insignia, or emblem of the Presi-  
 23 dent's Council on Physical Fitness and Sports or the  
 24 Foundation in advertising that the contributors, goods, or  
 25 services when donated, supplied, or furnished to or for the

1 use of, or approved, selected, or used by the President's  
 2 Council on Physical Fitness and Sports or the Founda-  
 3 tion.

4 **SEC. 6. VOLUNTEER STATUS.**

5       The Foundation may accept, without regard to the  
 6 civil service classification laws, rules, or regulations, the  
 7 services of volunteers in the performance of the functions  
 8 authorized herein, in the manner provided for under sec-  
 9 tion 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C.  
 10 742f(c)).

11 **SEC. 7. AUDIT, REPORT REQUIREMENTS, AND PETITION OF**  
 12 **ATTORNEY GENERAL FOR EQUITABLE RE-**  
 13 **LIEF.**

14       (a) AUDITS.—For purposes of the Act entitled “An  
 15 Act for audit of accounts of private corporations estab-  
 16 lished under Federal law”, approved August 30, 1964  
 17 (Public Law 88-504, 36 U.S.C. 1101-1103), the Founda-  
 18 tion shall be treated as a private corporation under Fed-  
 19 eral law. The Inspector General of the Department of  
 20 Health and Human Services and the Comptroller General  
 21 of the United States shall have access to the financial and  
 22 other records of the Foundation, upon reasonable notice.

23       (b) REPORT.—The Foundation shall, as soon as prac-  
 24 ticable after the end of each fiscal year, transmit to the  
 25 Secretary of Health and Human Services and to Congress

1 a report of its proceedings and activities during such year;  
 2 including a full and complete statement of its receipts, ex-  
 3 penditures, and investments.

4 (c) RELIEF WITH RESPECT TO CERTAIN FOUNDA-  
 5 TION ACTS OR FAILURE TO ACT.—If the Foundation—

6 (1) engages in, or threatens to engage in, any  
 7 act, practice or policy that is inconsistent with its  
 8 purposes set forth in section 2(b); or

9 (2) refuses, fails, or neglects to discharge its  
 10 obligations under this Act, or threaten to do so;  
 11 the Attorney General of the United States may petition  
 12 in the United States District Court for the District of Co-  
 13 lumbia for such equitable relief as may be necessary or  
 14 appropriate.

#### 15 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

16 For fiscal year 2010, there are authorized to be ap-  
 17 propriated such sums as may be necessary, to be made  
 18 available to the Foundation for organizational costs.

#### 19 **SECTION 1. SHORT TITLE.**

20 *This Act may be cited as the “National Foundation*  
 21 *on Fitness, Sports, and Nutrition Establishment Act”.*

#### 22 **SEC. 2. ESTABLISHMENT AND PURPOSE OF FOUNDATION.**

23 (a) *ESTABLISHMENT.*—*There is established the Na-*  
 24 *tional Foundation on Fitness, Sports, and Nutrition (here-*  
 25 *inafter in this Act referred to as the “Foundation”). The*

1 *Foundation is a charitable and nonprofit corporation and*  
 2 *is not an agency or establishment of the United States.*

3 (b) *PURPOSES.—The purposes of the Foundation*  
 4 *are—*

5 (1) *in conjunction with the Office of the Presi-*  
 6 *dent’s Council on Fitness, Sports and Nutrition, to*  
 7 *develop a list and description of programs, events and*  
 8 *other activities which would further the purposes and*  
 9 *functions outlined in Executive Order 13265, as*  
 10 *amended, and with respect to which combined private*  
 11 *and governmental efforts would be beneficial;*

12 (2) *to encourage and promote the participation*  
 13 *by private organizations in the activities referred to*  
 14 *in subsection (b)(1) and to encourage and promote*  
 15 *private gifts of money and other property to support*  
 16 *those activities; and*

17 (3) *in consultation with such Office, to under-*  
 18 *take and support activities to further the purposes*  
 19 *and functions of such Executive Order.*

20 (c) *PROHIBITION ON FEDERAL FUNDING.—The Foun-*  
 21 *ation may not accept any Federal funds.*

22 **SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.**

23 (a) *ESTABLISHMENT AND MEMBERSHIP.—The Foun-*  
 24 *ation shall have a governing Board of Directors (herein-*  
 25 *after referred to in this Act as the “Board”), which shall*

1 *consist of 9 members each of whom shall be a United States*  
2 *citizen and—*

3 *(1) 3 of whom should be knowledgeable or experi-*  
4 *enced in one or more fields directly connected with*  
5 *physical fitness, sports, nutrition, or the relationship*  
6 *between health status and physical exercise; and*

7 *(2) 6 of whom should be leaders in the private*  
8 *sector with a strong interest in physical fitness,*  
9 *sports, nutrition, or the relationship between health*  
10 *status and physical exercise.*

11 *The membership of the Board, to the extent practicable,*  
12 *should represent diverse professional specialties relating to*  
13 *the achievement of physical fitness through regular partici-*  
14 *pation in programs of exercise, sports, and similar activi-*  
15 *ties, or to nutrition. The Assistant Secretary for Health,*  
16 *the Executive Director of the President's Council on Fitness,*  
17 *Sports and Nutrition, the Director for the National Center*  
18 *for Chronic Disease Prevention and Health Promotion, the*  
19 *Director of the National Heart, Lung, and Blood Institute,*  
20 *and the Director for the Centers for Disease Control and*  
21 *Prevention shall be ex officio, nonvoting members of the*  
22 *Board. Appointment to the Board or its staff shall not con-*  
23 *stitute employment by, or the holding of an office of, the*  
24 *United States for the purposes of laws relating to Federal*  
25 *employment.*

1       (b) *APPOINTMENTS.*—Within 90 days from the date of  
2 enactment of this Act, the members of the Board shall be  
3 appointed by the Secretary in accordance with this sub-  
4 section. In selecting individuals for appointments to the  
5 Board, the Secretary should consult with—

6           (1) *the Speaker of the House of Representatives*  
7 *concerning the appointment of one member;*

8           (2) *the Majority Leader of the House of Rep-*  
9 *resentatives concerning the appointment of one mem-*  
10 *ber;*

11          (3) *the Majority Leader of the Senate concerning*  
12 *the appointment of one member;*

13          (4) *the President Pro Tempore concerning the*  
14 *appointment of one member;*

15          (5) *the Minority Leader of the House of Rep-*  
16 *resentatives concerning the appointment of one mem-*  
17 *ber; and*

18          (6) *the Minority Leader of the Senate concerning*  
19 *the appointment of one member.*

20       (c) *TERMS.*—The members of the Board shall serve for  
21 a term of 6 years, except that the original members of the  
22 Board shall be appointed for staggered terms as determined  
23 appropriate by the Secretary. A vacancy on the Board shall  
24 be filled within 60 days of the vacancy in the same manner  
25 in which the original appointment was made and shall be

1 *for the balance of the term of the individual who was re-*  
2 *placed. No individual may serve more than 2 consecutive*  
3 *terms as a member.*

4 (d) *CHAIRMAN.—The Chairman shall be elected by the*  
5 *Board from its members for a 2-year term and shall not*  
6 *be limited in terms or service, other than as provided in*  
7 *subsection (c).*

8 (e) *QUORUM.—A majority of the current membership*  
9 *of the Board shall constitute a quorum for the transaction*  
10 *of business.*

11 (f) *MEETINGS.—The Board shall meet at the call of*  
12 *the Chairman at least once a year. If a member misses 3*  
13 *consecutive regularly scheduled meetings, that member may*  
14 *be removed from the Board and the vacancy filled in accord-*  
15 *ance with subsection (c).*

16 (g) *REIMBURSEMENT OF EXPENSES.—Members of the*  
17 *Board shall serve without pay, but may be reimbursed for*  
18 *the actual and necessary traveling and subsistence expenses*  
19 *incurred by them in the performance of the duties of the*  
20 *Foundation, subject to the same limitations on reimburse-*  
21 *ment that are imposed upon employees of Federal agencies.*

22 (h) *LIMITATIONS.—The following limitations apply*  
23 *with respect to the appointment of employees of the Founda-*  
24 *tion:*



1           (1) *Employees may not be appointed until the*  
2           *Foundation has sufficient funds to pay them for their*  
3           *service. No individual so appointed may receive a sal-*  
4           *ary in excess of the annual rate of basic pay in effect*  
5           *for Executive Level V in the Federal service. A mem-*  
6           *ber of the Board may not receive compensation for*  
7           *serving as an employee of the Foundation.*

8           (2) *The first employee appointed by the Board*  
9           *shall be the Secretary of the Board who shall serve,*  
10          *at the direction of the Board, as its chief operating*  
11          *officer and shall be knowledgeable and experienced in*  
12          *matters relating to physical fitness, sports, and nutri-*  
13          *tion.*

14          (3) *No Public Health Service employee nor the*  
15          *spouse or dependent relative of such an employee may*  
16          *serve as a member of the Board of Directors or as an*  
17          *employee of the Foundation.*

18          (4) *Any individual who is an employee or mem-*  
19          *ber of the Board of the Foundation may not (in ac-*  
20          *cordance with the policies developed under subsection*  
21          *(i)) personally or substantially participate in the con-*  
22          *sideration or determination by the Foundation of any*  
23          *matter that would directly or predictably affect any*  
24          *financial interest of—*

1           (A) *the individual or a relative (as such*  
 2           *term is defined in section 109(16) of the Ethics*  
 3           *in Government Act, 1978) of the individual; or*

4           (B) *any business organization, or other en-*  
 5           *tity, of which the individual is an officer or em-*  
 6           *ployee, is negotiating for employment, or in*  
 7           *which the individual has any other financial in-*  
 8           *terest.*

9           (i) **GENERAL POWERS.**—*The Board may complete the*  
 10       *organization of the Foundation by—*

11           (1) *appointing employees;*

12           (2) *adopting a constitution and bylaws con-*  
 13           *sistent with the purposes of the Foundation and the*  
 14           *provision of this Act; and*

15           (3) *undertaking such other acts as may be nec-*  
 16           *essary to carry out the provisions of this Act.*

17       *In establishing bylaws under this subsection, the Board*  
 18       *shall provide for policies with regard to financial conflicts*  
 19       *of interest and ethical standards for the acceptance, solici-*  
 20       *tation and disposition of donations and grants to the Founda-*  
 21       *tion.*

22       **SEC. 4. POWERS AND DUTIES OF THE FOUNDATION.**

23           (a) **IN GENERAL.**—*The Foundation—*

24           (1) *shall have perpetual succession;*

1           (2) *may conduct business throughout the several*  
2       *States, territories, and possessions of the United*  
3       *States;*

4           (3) *shall have its principal offices in or near the*  
5       *District of Columbia; and*

6           (4) *shall at all times maintain a designated*  
7       *agent authorized to accept service of process for the*  
8       *Foundation.*

9       *The serving of notice to, or service of process upon, the agent*  
10      *required under paragraph (4), or mailed to the business ad-*  
11      *dress of such agent, shall be deemed as service upon or no-*  
12      *tice to the Foundation.*

13       (b) *SEAL.—The Foundation shall have an official seal*  
14      *selected by the Board which may be used as provided for*  
15      *in section 5.*

16       (c) *INCORPORATION; NONPROFIT STATUS.—To carry*  
17      *out the purposes of the Foundation under section 2, the*  
18      *Board shall—*

19           (1) *incorporate the Foundation in the District of*  
20       *Columbia; and*

21           (2) *establish such policies and bylaws as may be*  
22       *necessary to ensure that the Foundation maintains*  
23       *status as an organization that is described in section*  
24       *501(c)(3) of the Internal Revenue Code of 1986.*

1       (d) *POWERS.*—Subject to the specific provisions of sec-  
 2       tion 2, the Foundation, in consultation with the Office of  
 3       the President’s Council on Fitness, Sports, and Nutrition,  
 4       shall have the power, directly or by the awarding of con-  
 5       tracts or grants, to carry out or support activities for the  
 6       purposes described in such section.

7       (e) *TREATMENT OF PROPERTY.*—For purposes of this  
 8       Act, an interest in real property shall be treated as includ-  
 9       ing easements or other rights for preservation, conservation,  
 10      protection, or enhancement by and for the public of natural,  
 11      scenic, historic, scientific, educational inspirational or rec-  
 12      reational resources. A gift, devise, or bequest may be accept-  
 13      ed by the Foundation even though it is encumbered, re-  
 14      stricted, or subject to beneficial interests of private persons  
 15      if any current or future interest therein is for the benefit  
 16      of the Foundation.

17   **SEC. 5. PROTECTION AND USES OF TRADEMARKS AND**  
 18       **TRADE NAMES.**

19      (a) *TRADEMARKS OF THE FOUNDATION.*—Authoriza-  
 20      tion for a contributor, or a supplier of goods or services,  
 21      to use, in advertising regarding the contribution, goods, or  
 22      services, the trade name of the Foundation, or any trade-  
 23      mark, seal, symbol, insignia, or emblem of the Foundation  
 24      may be provided only by the Foundation with the concur-  
 25      rence of the Secretary or the Secretary’s designee.

1       (b) *TRADEMARKS OF THE COUNCIL.*—*Authorization*  
 2 *for a contributor or supplier described in subsection (a) to*  
 3 *use, in such advertising, the trade name of the President’s*  
 4 *Council on Fitness, Sports, and Nutrition, or any trade-*  
 5 *mark, seal, symbol, insignia, or emblem of such Council,*  
 6 *may be provided—*

7               (1) *by the Secretary or the Secretary’s designee;*  
 8       *or*

9               (2) *by the Foundation with the concurrence of*  
 10 *the Secretary or the Secretary’s designee.*

11 **SEC. 6. AUDIT, REPORT REQUIREMENTS, AND PETITION OF**  
 12 **ATTORNEY GENERAL FOR EQUITABLE RE-**  
 13 **LIEF.**

14       (a) *AUDITS.*—*For purposes of the Act entitled “An Act*  
 15 *for audit of accounts of private corporations established*  
 16 *under Federal law”, approved August 30, 1964 (Public Law*  
 17 *88–504, 36 U.S.C. 1101–1103), the Foundation shall be*  
 18 *treated as a private corporation under Federal law. The*  
 19 *Inspector General of the Department of Health and Human*  
 20 *Services and the Comptroller General of the United States*  
 21 *shall have access to the financial and other records of the*  
 22 *Foundation, upon reasonable notice.*

23       (b) *REPORT.*—*The Foundation shall, not later than 60*  
 24 *days after the end of each fiscal year, transmit to the Sec-*  
 25 *retary and to Congress a report of its proceedings and ac-*

1 *tivities during such year, including a full and complete*  
 2 *statement of its receipts, expenditures, and investments.*

3 *(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION*  
 4 *ACTS OR FAILURE TO ACT.—If the Foundation—*

5 *(1) engages in, or threatens to engage in, any*  
 6 *act, practice or policy that is inconsistent with its*  
 7 *purposes set forth in section 2(b); or*

8 *(2) refuses, fails, or neglects to discharge its obli-*  
 9 *gations under this Act, or threaten to do so;*

10 *the Attorney General of the United States may petition in*  
 11 *the United States District Court for the District of Colum-*  
 12 *bia for such equitable relief as may be necessary or appro-*  
 13 *priate.*



Calendar No. 677

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 1275**

**A BILL**

To establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

DECEMBER 7, 2010

Reported with an amendment